



THE DIGUISEPPE LAW FIRM, P.C.

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**Principal Attorney Raymond DiGuiseppe is licensed to practice in CA, D.C., N.C., and N.Y.*

November 27, 2023

SO ORDERED on this 28th day of November,
2023

VIA ECF

Honorable J. Brendan Day, U.S.M.J.
United States District Court
402 East State Street
Trenton, NJ 08608

A blue ink signature of J. Brendan Day, written in a cursive style.

J. BRENDAN DAY
UNITED STATES MAGISTRATE JUDGE

Re: Joint Proposal to Amend Scheduling Order

Association of New Jersey Rifle & Pistol Clubs, Inc. et al. v Platkin et al.

Case No. 3:18-cv-10507

Cheeseman et al. v. Platkin et al.

Case No. 1:22-cv-04360

Ellman et al. v. Platkin et al.

Case No. 3:22-cv-04397

Dear Judge Day:

Pursuant to the scheduling order entered on September 6, 2023, in this action as consolidated for purposes of the parties' cross-motions for summary judgment, all responsive papers of all Plaintiffs are currently due on or before December 4, 2023. These papers include the oppositions to Defendants' motion for summary judgment, the replies to Defendants' opposition to Plaintiffs' motions for summary judgment, the responses to Defendants' statements of undisputed material facts, the replies to Defendants' responses to Plaintiffs' statements of undisputed material facts, Plaintiffs' oppositions to Defendants' *Daubert* motions, and Plaintiffs' reply to Defendants' opposition to Plaintiffs' *Daubert* motions. State Defendants' responsive papers as to each of the foregoing are currently due December 22, 2023.



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For the reasons stated below, counsel for plaintiffs request amendment of the deadlines contained in the scheduling order. Plaintiffs have conferred with State Defendants, who have consented to the proposal below:

Cheeseman and *ANJPRC/Ellman* Plaintiffs' combined dispositive motion reply/cross-motion response briefs, and/or combined *Daubert* motion reply/cross-motion response brief, to be filed by **December 15, 2023**.

State Defendants' dispositive cross-motion reply brief, and/or *Daubert* cross-motion reply brief, to be filed by **January 19, 2023**.

The reasons for this proposal are as follows:

The undersigned counsel for the *Cheeseman* plaintiffs has been ordered to appear in Southern California for oral argument in two unrelated matters on December 5 and 6 – the first matter is before an appellate court in Riverside, California, involving complex issues of criminal law and procedure, and the second is before a federal district court in San Diego, involving cross-motions for summary judgment in another civil rights action. Both of these matters were scheduled for hearing after Plaintiffs' opening papers were filed in this case and thus several weeks after the initial scheduling order was entered. The undersigned counsel had no way of knowing if or when the hearings would be scheduled because the courts in these cases most often decide matters on the briefs alone.

Consequently, the undersigned counsel must not only prepare for these matters by reviewing the voluminous records in each of them, but also travel back and forth across the country, leaving this Saturday, December 2, and returning next Thursday, December 7. This unanticipated circumstance significantly limits the ability of undersigned counsel to work on the responsive papers currently due December 4 in the instant matter, which itself involves a large and complex record. Indeed, the responsive papers must address Defendants' 80-page brief (an overlength brief to which Plaintiffs consented), over 200 statements of undisputed facts, and the response to Plaintiffs' statements of undisputed facts. Counsel for the remaining plaintiffs (Mr. Schmutter) must also address the parties' competing *Daubert* motions concerning the parties' respective experts. Additionally, Mr. Schmutter is counsel for an amicus party in a case currently



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pending before the Massachusetts Supreme Judicial Court. A hearing is scheduled for December 4 in the case, and it is possible that he will be required to appear for it, in which case he too will be required to travel and prepare for the argument in the midst of the same period during which we would otherwise be focused on the papers in this case.

The parties agree that the above-proposed amended schedule is fair to both sides in ensuring reasonably equivalent opportunity for each side to fully brief and present its case. Further, no hearing date is currently scheduled on these motions, such that this slight modification of the briefing schedule should not materially impact or inconvenience the calendar or scheduling operations of this Court.

The parties respectfully request that the Court so amend the scheduling order.

Respectfully submitted,

Raymond M. DiGuiseppe

By: /s/ Raymond M. DiGuiseppe
Counsel for the *Cheeseman* Plaintiffs*
**Admitted Pro Hac Vice*

cc: All counsel of record (via ECF)